

**ORDINANCE NO. 2018-3**

**AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA (“VILLAGE”), AMENDING THE VILLAGE CODE BY AMENDING CHAPTER 23 “RETIREMENT,” SECTION 23-31 “DEFINITIONS,” SECTION 23-32 “MEMBERSHIP,” SECTION 23-39 “VESTING” AND SECTION 23-47 “COMMENCEMENT OF BENEFITS” TO ALLOW THE POLICE AND FIRE CHIEFS TO OPT OUT OF THE POLICE AND FIRE PENSION PLAN AND TO PROVIDE FOR IN-SERVICE DISTRIBUTIONS OF BENEFITS TO MANAGERIAL MEMBERS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Village of Key Biscayne (the “Village”) has a Police Officers and Firefighters Retirement Plan (the “Retirement Plan”) for sworn law enforcement personnel and firefighters employed in the Village’s Police and Fire Departments; and

**WHEREAS**, the Village wishes to amend the Retirement Plan to allow the police chief and fire chief to opt out of the Retirement Plan, and to authorize the police chief or fire chief, or a former police or fire chief who is employed in a managerial position not covered by the Plan, to receive in-service distributions from the Plan while employed by the Village in a managerial position.

**NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS:<sup>1</sup>**

**Section 1. Recitals.** The foregoing whereas clauses are true and correct and are incorporated herein by this reference.

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<sup>1</sup> Words in ~~strikeout~~ type are deletions from existing text and words in underline type are additions.

**Section 2. Village Code Amended.** Article II “Police Officers and Firefighters Retirement Plan” of Chapter 23 “Retirement” of the Village of Key Biscayne Code of Ordinances is hereby amended by amending Section 23-31 “Definitions” to read as follows:

**Sec. 23-31. - Definitions.**

\* \* \*

*Managerial position* means a job that satisfies the criteria detailed in F.S. § 447.203(4).

\* \* \*

**Section 3. Village Code Amended.** Article II “Police Officers and Firefighters Retirement Plan” of Chapter 23 “Retirement” of the Village of Key Biscayne Code of Ordinances is hereby amended by amending Section 23-32 “Membership” to read as follows:

**Sec. 23-32 – Membership.**

\* \* \*

- (2) Each Police Officer and Firefighter hired after October 1, 1997 shall become a Member of this System as a condition of employment on his date of full-time employment. Notwithstanding any provision in this Plan to the contrary, the Village’s police chief and fire chief shall have a one-time, irrevocable option to participate or not participate as a Member of this System, which may be exercised at any time after [the effective date of this ordinance].

\* \* \*

**Section 3. Village Code Amended.** Article II “Police Officers and Firefighters Retirement Plan” of Chapter 23 “Retirement” of the Village of Key Biscayne Code of Ordinances is hereby amended by amending Section 23-39 “Vesting” to read as follows:

**Sec. 23-39. - Vesting.**

\* \* \*

- (3) Any vested Member of the System whose position is terminated, for whatever reason, but who remains employed by the Village in some other capacity, shall have all retirement benefits accrued up to the date of such termination under this System preserved, provided he does not elect to withdraw his Accumulated Contributions from this System. Such accrued retirement benefits shall be payable at his otherwise early (reduced as for early retirement) or normal retirement date hereunder, or later, in accordance with the provisions of this System; provided further, however, that benefits shall not be payable



under this System during any period of continued employment by the Village, except as otherwise provided in Section 23-47(c).

\* \* \*

**Section 4. Village Code Amended.** Article II “Police Officers and Firefighters Retirement Plan” of Chapter 23 “Retirement” of the Village of Key Biscayne Code of Ordinances is hereby amended by amending Section 23-47 “Commencement of benefits” to read as follows:

**Sec. 23-47. - Commencement of benefits.**

\* \* \*

- (c) Notwithstanding any provision in this Plan to the contrary, a police chief or fire chief who is eligible for an unreduced normal retirement benefit, separated from employment and has opted not to participate as a member of this System, or a former police or fire chief who has separated from employment and is employed by the Village in a managerial position not covered by this Plan, may receive an in-service distribution, provided any such distribution complies with the applicable requirements of the Internal Revenue Code, Treasury Regulations and guidance issued by the Internal Revenue Service with respect to in-service distributions. For the purpose of this paragraph, “separated from employment” means separation from Village employment for one day or more.

**Section 5. Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 6. Conflicts.** All ordinances or parts of ordinances, resolutions or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

**Section 7. Inclusion In The Code.** It is the intention of the Village Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Key Biscayne, Florida; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

**Section 8.** **Effective Date.** That this Ordinance shall be effective immediately upon adoption on second reading.

PASSED AND ADOPTED on first reading this 6<sup>th</sup> day of March, 2018.

PASSED AND ADOPTED on second reading this 10<sup>th</sup> day of April, 2018.

  
MAYRA PENA LINDSAY, MAYOR

ATTEST:

  
JENNIFER MEDINA, CMC  
VILLAGE CLERK



APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

  
VILLAGE ATTORNEY



## MIAMI DAILY BUSINESS REVIEW

Published Daily except Saturday, Sunday and  
Legal Holidays  
Miami, Miami-Dade County, Florida

### STATE OF FLORIDA COUNTY OF MIAMI-DADE:

Before the undersigned authority personally appeared JOHANA OLIVA, who on oath says that he or she is the LEGAL CLERK, Legal Notices of the Miami Daily Business Review f/k/a Miami Review, a daily (except Saturday, Sunday and Legal Holidays) newspaper, published at Miami in Miami-Dade County, Florida; that the attached copy of advertisement, being a Legal Advertisement of Notice in the matter of

#### PUBLIC NOTICE

VILLAGE OF KEY BISCAYNE - ORDINANCE - APR. 10, 2018

in the XXXX Court,  
was published in said newspaper in the issues of

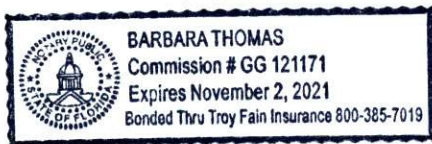
03/30/2018

Affiant further says that the said Miami Daily Business Review is a newspaper published at Miami, in said Miami-Dade County, Florida and that the said newspaper has heretofore been continuously published in said Miami-Dade County, Florida each day (except Saturday, Sunday and Legal Holidays) and has been entered as second class mail matter at the post office in Miami in said Miami-Dade County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

*Johana Oliva*  
Sworn to and subscribed before me this  
30 day of MARCH, A.D. 2018

*Barbara Thomas*  
(SEAL)

JOHANA OLIVA personally known to me



### VILLAGE OF KEY BISCAYNE OFFICE OF THE VILLAGE CLERK PUBLIC NOTICE

Notice is hereby given that the following ordinance will be considered on Second Reading by the Village Council of the Village of Key Biscayne at a meeting to be held on Tuesday, April 10, 2018 at 7:00 p.m., in the Council Chamber, located at 560 Crandon Boulevard, Key Biscayne, Florida:

**AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA ("VILLAGE"), AMENDING THE VILLAGE CODE BY AMENDING CHAPTER 23 "RETIREMENT," SECTION 23-31 "DEFINITIONS," SECTION 23-32 "MEMBERSHIP," SECTION 23-39 "VESTING" AND SECTION 23-47 "COMMENCEMENT OF BENEFITS" TO ALLOW THE POLICE AND FIRE CHIEFS TO OPT OUT OF THE POLICE AND FIRE PENSION PLAN AND TO PROVIDE FOR IN-SERVICE DISTRIBUTIONS OF BENEFITS TO MANAGERIAL MEMBERS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.**

The proposed Ordinance may be inspected by the public at the Office of the Village Clerk. Interested parties may appear at the Public Hearing and be heard with respect to the proposed Ordinances. Any person wishing to address the Village Council on any item at this Public Hearing is asked to register with the Village Clerk prior to that item being heard.

In accordance with the Americans With Disabilities Act of 1990, all persons who are disabled and who need special accommodations to participate in this proceeding because of that disability should contact the Office of the Village Clerk, 88 West McIntyre Street, Suite 220, Key Biscayne, Florida 33149, telephone number (305) 365-5506, not later than two business days prior to such proceeding.

Should any person desire to appeal any decision of the Village Council with respect to any matter to be considered at this meeting, that person shall insure that a verbatim record of the proceedings is made including all testimony and evidence upon which any appeal may be based (F.S. 286.0105).

Comments of any interested party relative to this matter may be submitted in writing and or presented in person at the public hearing.

Jennifer Medina, CMC  
Village Clerk  
18-95/0000307915M

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